

#### **Public Safety Board**

## September 8, 2014

3:00 p.m.

### **City Council Chambers**

Members present: Councilor Amanda Grady Sexton (Chair), Mr. Jim O'Neill, Mr. Michael Russell, Councilor Fred Keach, Councilor Brent Todd, Councilor Stephen Shurtleff, Ms. Lisa Brown, Mr. Anthony Bourque, Mr. Don Carter, Ms. Carol Hargrove

City Staff Present: Deputy City Manager Carlos Baia, City Solicitor James Kennedy, Acting Police Chief Brad Osgood, Fire Chief Dan Andrus (Staff Liaison)

Not Present: Councilor J. Allen Bennett, Councilor Rob Werner, Mr. Steve Edwards, Mr. Jim Cotsana

#### Call to Order

Councilor Grady Sexton called the meeting to order at 3:09 p.m. Board members and City staff introduced themselves.

#### **Approval of Meeting Minutes**

The board reviewed the minutes of April 7, 2014. Mr. Carter moved to approve the minutes of April 7, 2014 as written. Mr. Russell seconded the motion. The motion passed unanimously.

#### **Disruptive Properties**

City Solicitor James Kennedy reported on a property at 74 Rumford Street and said that a citizen had suggested an ordinance. Concord has a general nuisance ordinance (City Code 13-1-3) which includes trash and refuse. There is some concern about adopting some of the suggested ordinances as written.

Mr. O'Neill asked if it was a misnomer to refer to "disruptive property" and not the tenants causing the disruption. Mr. Kennedy said that was correct, the focus is on individuals. Mr. O'Neill asked about the origins of the ordinances in Bangor and Orono. Mr. Kennedy said that he had not yet had the opportunity to speak to Bangor officials.

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Mr. Carter said that he had contacted the Bangor Police Department and that they said that they have seen a decrease in activity. Mr. Carter said that he has issues with different sections of the ordinance. Councilor Todd asked about concerns in adopting the ordinance. Mr. Kennedy replied that there were sections that were ambiguous and confusing.

Ms. Kathy Conners testified that she had lived on Cambridge Street since 1987. There have been many problems, including illegally parked cars. Two drug dealers were arrested in 2010. She said that her main concern is safety. She has been unable to use her backyard for several years. She reported being threatened. She said that she wants to live there and feels like she can not. She said that other neighbors are seeking to move. She does not know what to do. The Police Department and Code Administration can only do so much. She said that she is very pleased with the Police response. She said that she did not look at Orono's ordinance for a possible template.

Councilor Grady Sexton thanked Ms. Conners for her very reasonable approach. Ms. Brown asked if the landlord has other properties. Ms. Conners replied no, that he lives in Pembroke. This property has been getting worse. Councilor Shurtleff asked about communications over concerns with mental health issues and if this is the target. Ms. Conners said that it is not. Councilor Todd thanked Ms. Conners for her patience and asked her to give examples of why her yard could not be used. Ms. Conners said there is a stench of old beer, that a bucket of vomit was thrown from a porch, that public urination has been witnessed, that two apartments have been vacated in the last two weeks, and that drug dealing is the most upsetting problem. Ms. Brown asked if there was any response from the landlord. Ms. Conners said yes, every once in a while, that he has done some things.

Acting Police Chief Brad Osgood reviewed the report and the five year history of calls for service. That included 120 calls, 28 arrests, and 140 hours of personnel time. Calls included drug activity and fights in progress. One tenant has been arrested twice since July 1<sup>st</sup>. Another tenant has been arrested 35 times in 15 years. The Code Administration Division has identified nine violations within the structure. The landlord has been cooperative.

Ms. Hargrove asked if there have been any issues with animals. Chief Osgood replied yes, with vicious dogs. Chief Osgood said that the Police Department has been very good about working with Code on training. Councilor Grady Sexton asked if the Police Department can bring charges against the landlord. Chief Osgood said that there is no mechanism to hold the landlord accountable. Mr. O'Neill asked if the City can enforce on code violations. Mr. Kennedy said they can and do. Chief Osgood reported on a document citing nine code violations. Mr. Carter asked if there are situations where landlords are required to have a certificate of occupancy. Mr. Kennedy said yes. Mr. Carter asked how many other properties in the City have similar issues. Mr. Osgood said that tenants are the issue, and that they often move from one property to another. Mr.

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Shurtleff said that Ms. Conners got a less than satisfactory response from Code Administration and that it would be helpful to have someone from that division here. Councilor Keach said that the Police and Fire Departments respond to 65 South State Street two to three times a week. He is very sympathetic to Ms. Conners. He said that as a Portland police officer, bars in that city were penalized for excessive calls-so they stopped calling. He cautioned about creating disincentives.

Councilor Todd said that he wished to reiterate that landlords may not know of problems. He advised caution about where we go with this ordinance. Chief Osgood said that his department enforces both City ordinances and State law. He said the existing framework is pretty good. Councilor Todd asked if he would recommend revisions. Chief Osgood said that he had met with Mr. Kennedy to review language and that there are opportunities to firm up the language.

Councilor Grady Sexton said that changes in the law should be a last case scenario. She asked if there were any other opportunities to work with other agencies. Chief Osgood said that they are doing the best they can to work with other City departments. Mr. Russell asked when they started working with Code Administration. Chief Osgood said the date was August 12<sup>th</sup>. Mr. Russell asked if there had been positive results.

Resident Jon Kelly testified. Mr. Kelly is a former resident of the Rumford St. neighborhood and currently a landlord in the City. Mr. Kelly indicated that landlords do not have the ability to evict people...only the Court has that ability. Mr. Kelly advised that he would like to see the Committee do something to address the issue but wants to ensure landlords are involved in the process as well. Mr. Kelly reported that he read the Maine ordinances but did not like them. He said they appear to hold the landlord responsible for tenant behavior. Mr. Kelly said that he has leases with tenants that spell out that they cannot engage in criminal behavior but that he currently does not include language on "disruptive behavior."

Chris Wellington from NH Legal Assistance testified. She also advised that she was a landlord or small property owner. She advised that she thinks the current City ordinances and State laws are acceptable for the City of Concord. Ms. Wellington said that there are currently avenues to address this issue without the need for a new ordinance. She too has reviewed the Maine ordinances and believes that they are vulnerable to a challenge. He view is that the ordinance moves the Police more towards civil enforcement and more away from criminal enforcement. Ms. Wellington raised the issue of whether this would complicate State and Federal Fair Housing laws. She expressed a concern regarding discrimination with respect to a new ordinance.

Gilles Bissonnette, Staff Attorney from the NH ACLU testified. Mr. Bissonnette submitted a six page written testimony for the Committee to consider. He remarked that there was some concern regarding procedural due process with the Maine ordinances as

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well as some concern with the 1<sup>st</sup> amendment. He advised that his concerns were spelled out in his written testimony.

City Councilor Byron Champlin spoke to the Board. Councilor Champlin advised that he was the Councilor on record that referred this matter to the Board. He expressed concern about the number of personnel hours invested in this one property. He indicated that the number of arrests does not seem to solve the problem. He expressed concern regarding the depreciation of property in the neighborhoods with properties such as this one. He posed the question...if we have the tools in our tool kit already then why have we let a property go this far. He said that we need to find a way to address these issues so that neighbors don't go years without a solution. Mr. Champlin said that the issue is complex.

Ellen Groh for the Coalition to End Homelessness testified. Ms. Groh indicated that she had concerns that an ordinance might penalize people and possibly deter people from calling the police.

Resident John Cook from Union Street testified. Mr. Cook advised that he lived in a similar situation many years ago. He said that he eventually bought properties adjacent to his home so that he could live peacefully. He said that you could get PTSD living in situations such as the one described by Ms. Conners.

Resident Kim Wheeler testified. Ms. Wheeler is a property owner on Rumford St. She remarked that all of the properties surrounding this one residence are nice. She said that what goes on at 74 Rumford Street is a circus.

The Board concluded its public testimony.

Councilor Todd indicated that the city should look at its existing ordinances and find out why they may not be working as they should. Councilor Keach indicated that there needs to be a focus on the individual behaviors. Mr. O'Neill discussed a motion to bring this back to the City Administration. He spoke about enforcement and whether or not we need to adjust our ordinances. He thought that this was best looked at by Legal, Code and Police. Councilor Shurtleff asked whether a sub-committee was necessary for this referral.

A motion was made by Mr. O'Neill and seconded by Councilor Todd: To refer the matter back to the City Manager to identify existing ordinances and statutes that we have in place and to identify any areas that may be lacking with ordinances and statues and enforcement capabilities. The motion passed unanimously.

There was consensus within the Board that this should be done quickly.

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City Solicitor Kennedy said that his office would reach out to other stakeholders as part of the review and thought that he could have a report back to the Board by November 2014

Councilor Grady Sexton remarked that there is overall consensus that this issue is not acceptable and the Board would like to move quickly to see what can be done to address this issue.

# **Next Meeting**

The next meeting to review this matter will be scheduled at the call of the Chair.

# **Adjournment**

Councilor Todd moved to adjourn the meeting. The motion was seconded by Councilor Shurtleff. The meeting adjourned at 5:07 PM